

EXHIBIT F

1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE SOUTHERN DISTRICT OF NEW YORK

4 THE PHILLIES, a Pennsylvania)
5 limited partnership,)
6 Plaintiff,)
7 vs.) Civil Action No.
8 HARRISON/ERICKSON,) 19-7239
9 INCORPORATED, a New York)
10 corporation, HARRISON ERICKSON,)
11 a partnership, and WAYDE)
12 HARRISON and BONNIE ERICKSON,)
13 Defendants.)
14 -----)

15 1

16 *****CONFIDENTIAL*****

17 VIDEOTAPED-TELEPHONIC 30(b)(6) DEPOSITION

18 TAKEN REMOTELY VIA

19 VIDEOCONFERENCE AND TELECONFERENCE

20 OF

21 DAVID RAYMOND

22 Thursday, May 7, 2020

23
24 Reported by:
25 FRANCIS X. FREDERICK, CSR, RPR, RMR
JOB NO. 179894

ROUGH DRAFT

<p style="text-align: right;">Page 2</p> <p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5 May 7, 2020</p> <p>6 3:45 p.m.</p> <p>7</p> <p>8 CONFIDENTIAL videotaped deposition</p> <p>9 of DAVID RAYMOND, pursuant to Federal</p> <p>10 Rule of Civil Procedure 30(b)(6), before</p> <p>11 Francis X. Frederick, a Certified</p> <p>12 Shorthand Reporter, Registered Merit</p> <p>13 Reporter and Notary Public of the States</p> <p>14 of New York and New Jersey.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 3</p> <p>1</p> <p>2 A P P E A R A N C E S:</p> <p>3</p> <p>4 (All Counsel and Participants</p> <p>5 present via videoconference and</p> <p>6 teleconference in compliance with</p> <p>7 COVID-1 restrictions.)</p> <p>8</p> <p>9 DUANE MORRIS</p> <p>10 Attorneys for Plaintiff</p> <p>11 30 South 17th Street</p> <p>12 Philadelphia, Pennsylvania 19103</p> <p>13 BY: TYLER MARANDOLA, ESQ.</p> <p>14 DAVID WOLFSON, ESQ.</p> <p>15</p> <p>16 MITCHELL SILBERBERG & KNUPP</p> <p>17 437 Madison Avenue</p> <p>18 New York, New York 10022</p> <p>19 BY: PAUL MONTCLARE, ESQ.</p> <p>20 LEO LICHTMAN, ESQ.</p> <p>21 - and -</p> <p>22 MITCHELL SILBERBERG & KNUPP</p> <p>23 1818 N Street NW</p> <p>24 Washington, DC 20036</p> <p>25 BY: MATTHEW WILLIAMS, ESQ.</p>
<p style="text-align: right;">Page 4</p> <p>1</p> <p>2 A P P E A R A N C E S: (Cont'd.)</p> <p>3</p> <p>4 ALSO PRESENT:</p> <p>5 PHIL RIZZUTI, Videographer</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1</p> <p>2 THE VIDEOGRAPHER: Good afternoon.</p> <p>3 My name -- one second.</p> <p>4 My name is Phil Rizzuti. I am the</p> <p>5 legal videographer in association with</p> <p>6 TSG Reporting, Inc. Due to the severity</p> <p>7 of the COVID-19 and following the</p> <p>8 practice of social distancing I will not</p> <p>9 be in the same room as the witness.</p> <p>10 Instead I will record this videotaped</p> <p>11 deposition remotely. The reporter,</p> <p>12 Francis Frederick, also will not be in</p> <p>13 the same room and will swear the witness</p> <p>14 remotely.</p> <p>15 Do all parties stipulate to the</p> <p>16 validity of this video recording and</p> <p>17 remote swearing and that it will be</p> <p>18 admissible in the courtroom as if it had</p> <p>19 been taken following Rule 30 of the</p> <p>20 Federal Rules of Civil Procedure and the</p> <p>21 state's rules where this case is</p> <p>22 pending?</p> <p>23 MR. MONTCLARE: So stipulated on</p> <p>24 behalf of the defense.</p> <p>25 MR. MARANDOLA: Tyler Marandola</p>

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<p>1 the character of the Phanatic was fully formed</p> <p>2 by October 31st, 1984?</p> <p>3 A. I'm sorry. Give me the date</p> <p>4 again.</p> <p>5 Q. October 31st, 1984 which is the</p> <p>6 date of the assignment?</p> <p>7 A. I'd surely think by -- in four</p> <p>8 years, we -- you know, when I went out as the</p> <p>9 Phanatic I understood who he was and how the</p> <p>10 respond and react and certainly feel it was</p> <p>11 pretty fully formed by then. But, you know,</p> <p>12 with different pop culture in different parts,</p> <p>13 you know, of things that were going on, the</p> <p>14 Phanatic pulled from those and certainly</p> <p>15 continued to use his personality, you know, to</p> <p>16 develop routines and skits and things like</p> <p>17 that to reflect current pop culture.</p> <p>18 But understanding those types of</p> <p>19 changes. But his personality certainly in the</p> <p>20 first year was formed and well into the second</p> <p>21 year. So I would say yes.</p> <p>22 Q. And is it the Phillies'</p> <p>23 understanding that Harrison/Erickson had the</p> <p>24 right to improve anyone who played the role of</p> <p>25</p>	<p>1 the Phanatic in the costume?</p> <p>2 MR. MARANDOLA: Objection.</p> <p>3 Outside the scope of the 30(b)(6)</p> <p>4 topics. You can answer to your personal</p> <p>5 knowledge if you have any.</p> <p>6 A. The only authority for selecting</p> <p>7 the performer was with the Philadelphia</p> <p>8 Phillies.</p> <p>9 Q. How do you know that?</p> <p>10 A. Because I was there during all</p> <p>11 many time. And we didn't -- we did not</p> <p>12 consult with Harrison/Erickson for who would</p> <p>13 be in the costume. They were not a definitive</p> <p>14 voice in that process.</p> <p>15 Q. Do you know whether there was a</p> <p>16 contractual obligation to get the approval for</p> <p>17 the Phanatic performer from Harrison/Erickson?</p> <p>18 MR. MARANDOLA: Objection.</p> <p>19 Outside the scope of the 30(b)(6)</p> <p>20 topics. You can answer in your personal</p> <p>21 capacity if you know.</p> <p>22 A. I was not privy to the agreement.</p> <p>23 I was just privy to being involved in</p> <p>24 selecting the performers. And we never had to</p> <p>25</p>
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<p>1 receive that approval during that process. To</p> <p>2 my knowledge, we did not.</p> <p>3 Q. I'm not asking really for your</p> <p>4 knowledge. Did you do any investigation as</p> <p>5 part of your appearing here to testify as a</p> <p>6 representative -- as a designated</p> <p>7 representative of The Phillies as to whether</p> <p>8 or not there were any contractual obligations</p> <p>9 between The Phillies and the Harrison/Erickson</p> <p>10 people as to who selected the performer?</p> <p>11 MR. MARANDOLA: Objection outside</p> <p>12 the scope of the 30(b)(6) topics. You</p> <p>13 can answer in your personal capacity.</p> <p>14 MR. MONTCLARE: I just asked if he</p> <p>15 did any investigation.</p> <p>16 A. I haven't seen any of those</p> <p>17 documents. Nor did we discuss those documents</p> <p>18 or whether they were in place or not.</p> <p>19 Q. Okay. And my question was really</p> <p>20 did you do an investigation relating to that</p> <p>21 topic.</p> <p>22 A. No. I did not.</p> <p>23 Q. How did The Phillies pick you to</p> <p>24 be a Phanatic performer?</p> <p>25</p>	<p>1 A. Well, in 1976 and 1977 I was an</p> <p>2 intern in the promotions office headed by</p> <p>3 Frank Sullivan. And when 1970 came up he</p> <p>4 contacted me while I was still on campus at</p> <p>5 the University of Delaware I was a student, an</p> <p>6 undergraduate student and he asked me if I</p> <p>7 would continue with my intern position in 1978</p> <p>8 and wanted me to also state for the games and</p> <p>9 then they described that they needed me to get</p> <p>10 fitted for a costume and that I would be</p> <p>11 wearing this costume during the games.</p> <p>12 Q. Okay. Was anybody present at your</p> <p>13 fitting in 1978?</p> <p>14 MR. MARANDOLA: Objection.</p> <p>15 Outside the scope of the 30(b)(6)</p> <p>16 topics. You can answer in your personal</p> <p>17 capacity.</p> <p>18 MR. MONTCLARE: He just testified</p> <p>19 to that. I'm asking him a question --</p> <p>20 never mind.</p> <p>21 Q. Just answer the question. Thank</p> <p>22 you.</p> <p>23 A. I was by myself during that visit</p> <p>24 to New York to the studio.</p> <p>25</p>

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<p>1 2 between you on the one hand and The Phillies 3 on the other hand concerning any copyright 4 rights in the Phanatic character up through 5 November 26, 1979?</p> <p>6 MR. MARANDOLA: Objection, outside 7 the scope of the 30(b)(6) notice. 8 You can answer as an individual, 9 Mr. Raymond.</p> <p>10 A. So when you're talking about 11 copyrighted character, you're talking about 12 the personality?</p> <p>13 Q. Is there any writing between you 14 and The Phillies concerning the copyrighting 15 of character the Phanatic up through November 16 26, 1979?</p> <p>17 MR. MARANDOLA: Objection, outside 18 the scope of the 30(b)(6) notice. 19 Objection calls for a legal conclusion. 20 You can answer as an individual.</p> <p>21 A. Yeah. I just want to be clear 22 when you're talking -- the character obviously 23 means a couple different things. So your 24 question, is it regarding my writings to The 25 Phillies, so my -- you're asking me if I had</p>	<p>1 2 something written between me and The Phillies 3 about what the Phanatic's personality was. Is 4 that what you're asking?</p> <p>5 Q. Yes.</p> <p>6 A. There was nothing in writing. It 7 was all in my head.</p> <p>8 Q. To your knowledge, did The 9 Phillies, as of November 26, 1979, register 10 any copyrights for the Phanatic character?</p> <p>11 MR. MARANDOLA: Objection. 12 Outside the scope of the 30(b)(6) 13 notice. Mr. Raymond you can answer if 14 you know.</p> <p>15 A. Again, I have not -- I was not 16 privy or involved in any of those documents or 17 discussions or -- nor did I have any knowledge 18 about the legal portions of Phanatic's 19 personality.</p> <p>20 Q. So I just want to get this 21 straight. Is it your testimony you created 22 the character or that the Phillies created the 23 character that you described earlier?</p> <p>24 A. I was employed by the Philadelphia 25 Phillies. So my understanding is that any of</p>
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<p>1 2 the work product that I was creating would be 3 part of The Phillies' ownership and control.</p> <p>4 I will say this. One of the best 5 decisions The Phillies made was that they 6 allowed me the freedom and room to develop the 7 personality on my own with limited direction. 8 I worked closely with Bill Giles throughout 9 the first number of months with the Phanatic 10 about thinking about where in the stadium I 11 could go, where I would be most effective, and 12 we would collaborate on that. And then if I 13 did something that Bill and I, in our 14 discussions liked, we kept doing.</p> <p>15 Occasionally, Bill might suggest 16 to me that something was not necessarily what 17 he would like. We'd discuss it. And many 18 times he would agree to my focus and there 19 were times when he said, Well, let's stop 20 doing those things but let's do these things 21 instead. So I had the freedom to do whatever 22 I wanted to do as long as it was G-rated and 23 for the most part I was allowed to continue to 24 do that.</p> <p>25 Q. Do you have any recollection of</p>	<p>1 2 the specific conversations that you had with 3 Mr. Giles that just testified about?</p> <p>4 A. Well, there was -- do you have a 5 time frame in mind that you want to know about 6 --</p> <p>7 Q. Well, you just -- I'm just 8 following up owner testimony you said it was 9 collaborative. You spoke with him. You 10 shared ideas, blah-di-de-blah. Yeah, when -- 11 do you have any specific information about 12 those conversations? Like where they were, 13 when they were there, who was there.</p> <p>14 A. Well, I can give you one very 15 specific. I had created a routine where the 16 Phanatic would come out in the fifth inning 17 and, based on the team we were playing, there 18 would be a song -- so, for instance, the Mets. 19 Frank Sinatra not would be singing New York 20 New York. I would come out. I'd line up 21 three of the novelty -- the plastic novelty 22 helmets that were the Mets helmets. And I 23 would smash them with a ground crew instrument 24 to the tune of New York New York. And Bill 25 called me in one day and said that there was a</p>